IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 27TH JUNE 2007 / 6TH ASHADHA 1929

Bail Appl..No. 3862 of 2007()

CRMP.2039/2007 of D.C. & SESSIONS COURT,KOLLAM
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PETITIONER-1ST ACCUSED IN CR.136/07 OF YEROOR PS

RAJEESH, AGED 32 YEARS,
S/O.G.SURESH, SURAJ NIVAS, MAYYANAD CHERRY,
MAYYANAD.

BY ADV. SRI.T.M.RAMAN KARTHA
SMT.MANJU R KARTHA

RESPONDENTS: COMPLAINANT
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1. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. THE SUB INSPECTOR OF POLICE,
YEROOR POLICE STATION.

BY ADV. SRI. S.U. NAZER, PUBLIC PROSECUTOR

THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON 27/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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B.A.No. 3862 Of 2007

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Dated this the 27th day of June, 2007

ORDER

Application for anticipatory bail. The petitioner, the 1st accused is the husband of the defacto complainant. His relatives, who have already been arrayed as accused, have already been granted anticipatory bail by the learned Sessions Judge. The petitioner was allegedly guilty of matrimonial cruelty of the culpable variety against his wife. Investigation is in progress. Petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the allegations are raised because of the strain in the marriage. The marriage took place on 21.11.02. A boy child has been born in the matrimony. Fanciful and false allegations are raised on account of the strain in the matrimonial tie.

3. The learned counsel for the petitioner prays, the learned Public Prosecutor does not raise any serious objections and I am satisfied that directions under Section 438 Cr.P.C can be issued in favour of the petitioner, subject of course that appropriate and strict conditions which can be imposed in the interests of a fair and efficient investigation.

4. In coming to the conclusion the result I take note of the fact that if the petitioner is arrested and incarcerated in prison all possibilities of reconciliation and return of harmony in the matrimony would be marred.

5. In the result, this bail application is allowed. The following directions are issued under Section 438 Cr.P.C.:-

i) The petitioner shall appear before the Learned Magistrate having jurisdiction at 11 a.m on 4.07.2007. He shall be enlarged on regular bail on his executing a bond for Rs.25,000/-(Rupees Twenty Five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

ii) The petitioner shall make himself available for interrogation before the investigating officer between 10 a.m. and 4 p.m on 5th and 6th of July, 2007 and thereafter he shall make themselves available for interrogation before the investigating officer between 10 a.m and 12 noon on all Mondays and Fridays, for a period of three months. Subsequently he shall so appear as and when directed by the Investigating Officer in writing to do so.

iii) If the petitioner does not surrender before the learned Magistrate as directed in clause (i), all directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the

petitioner and deal with him in accordance with law.

iv) if the petitioner were arrested prior to their surrender to the learned Magistrate as directed in clause (i) above, they shall be released forthwith on their executing a bond of Rs.25,000/-(Rupees Twenty five thousand only) without any sureties undertaking to appear before the learned Magistrate as directed in clause(i) above.

(R.BASANT, JUDGE)

sj